



FAYETTEVILLE CITY COUNCIL
AGENDA
NOVEMBER 7, 2011
5:00 P.M.
LAFAYETTE ROOM

1.0 CALL TO ORDER

2.0 INVOCATION

3.0 APPROVAL OF AGENDA

4.0 OTHER ITEMS OF BUSINESS

4.1 Amending Chapter 6, Animals and Fowl

Presented By: Karen M. McDonald, City Attorney Rick Moorefield, County Attorney

4.2 Police - Teen Crime

Presented By: Tom Bergamine, Chief of Police

4.3 RAMP - Rental Action Management Program

Presented By: Doug Hewett, Assistant City Manager

4.4 City Council Agenda Item Request

Presented By: Council Member Keith Bates

5.0 ADJOURNMENT

CLOSING REMARKS

POLICY REGARDING NON-PUBLIC HEARING AGENDA ITEMS

Anyone desiring to address the Council on an item that is not a public hearing must present a written request to the City Manager by 10:00 a.m. on the Wednesday preceding the Monday meeting date.

POLICY REGARDING PUBLIC HEARING AGENDA ITEMS

Individuals wishing to speak at a public hearing must register in advance with the City Clerk. The Clerk's Office is located in the Executive Offices, Second Floor, City Hall, 433 Hay Street, and is open during normal business hours. Citizens may also register to speak immediately before the public hearing by signing in with the City Clerk in the Council Chamber between 6:30 p.m. and 7:00 p.m.

**POLICY REGARDING CITY COUNCIL MEETING PROCEDURES
SPEAKING ON A PUBLIC AND NON-PUBLIC HEARING ITEM**

Individuals who have not made a written request to speak on a non-public hearing item may submit written materials to the City Council on the subject matter by providing twenty (20) copies of the written materials to the Office of the City Manager before 5:00 p.m. on the day of the Council meeting at which the item is scheduled to be discussed.

CITY COUNCIL ACTION MEMO

TO: Mayor & Members of City Council
FROM: Doug Hewett, Assistant City Manager
DATE: November 7, 2011
RE: **RAMP - Rental Action Management Program**

THE QUESTION:

Does the following update meet City Council's interest for the development of a rental management program to address problem residential rental properties that is compliant with revised State Law?

RELATIONSHIP TO STRATEGIC PLAN:

Supports city goal #2: Growing City, Livable Neighborhoods – A Great Place to Live, and this issue was a Target for Action on last fiscal year's City strategic plan.

BACKGROUND:

On April 26, 2011, the City Council adopted a Probationary Rental Occupancy Permit (PROP) program. That program was designed to allow the City to more closely monitor and regulate rental properties that were the site of repeated or severe code violations or that were the site of certain criminal acts. The program was to be implemented July 1, 2011.

On June 18, 2011, Senate Bill 683 was ratified by the Legislature. The purpose of this Bill was to limit the level of local regulation of rental properties as well as limit the use of periodic inspections. Specifically, it prohibits cities from enforcing an ordinance that requires permitting of rental properties unless the property is the site of more than three violations in a 12-month period or is identified as being in the top 10 percent of properties with crime or disorder problems as set forth in a local ordinance. The language regarding the top 10 percent of properties with crime or disorder problems is based on a program currently utilized in Charlotte.

This Bill had a direct impact on the functionality and substance of the City's PROP program as outlined by staff on August 1, 2011. Given the substantial changes needed to make the City's PROP ordinance compliant with NC Law, staff recommended, and City Council approved rescission/repeal of the PROP ordinance on August 8, 2011. City Council also directed staff to revise the PROP program, consistent with state law, and bring back program alternatives as soon as possible.

Staff provided an update on October 3 with a draft ordinance for PROP II, now titled RAMP (Rental Action Management Plan). In developing the draft ordinance and program overview, staff has met several times with counterparts in Charlotte regarding their program to determine how we might be able to replicate it in Fayetteville. Additionally, staff has conducted 5 stakeholder meetings to explain RAMP and solicit feedback.

ISSUES:

As discussed at the October 3 briefing to City Council, there are two avenues by which properties can gain entry into RAMP:

1. Code Violations - 3+ in a 12-month period; and/or
2. Crime and Social Disorder in the top 10% in a 6-month period.

Tracking of code violations is a relatively straightforward process. From October 2010 through October 2011, there were more than 500 residential properties with 3+ code violations. Of that number, staff estimates that half were owner occupied. The remaining properties that were offered for rent could be subject to RAMP, if enacted. Issues surrounding how to track code violations at condominium complexes with rental units and mobile home parks may present some challenges,

but tracking 3+ violations is again relatively straightforward.

Additionally, once a property is in RAMP for code violations, the goal is to ensure there are no additional code violations within a 12-month period. If there are no additional violations, then the property can be removed from RAMP.

As it relates to tracking the top 10% of crime and social disorder, tracking is more complicated. To determine the percentiles for crime and social disorder (csd), we must first identify csd violations for which we believe the property owner can help influence - draft list attached. The list of csd occurrences must be assigned a criteria weight to be measured uniformly against all csd occurrences that happen in a 6-month period for similar rental properties in the City by the 4 housing categories established in the ordinance - draft ordinance attached.

Once in RAMP for csd, the goal is to ensure that there are no additional csd occurrences within 6-months, or at a minimum that the csd rating for the property falls below the top 10% for similar properties in the city. If there are no additional violations, then the property can be removed from RAMP.

To achieve the reduction in the csd rating for the property, the property owner would enter into a remedial action plan agreement with the City that would specify actions the owner will complete during the evaluation period. The draft ordinance provides avenues for the owner to demonstrate good faith efforts and continue renting the property, even if the csd rating doesn't appreciably reduce.

Despite the latitude the ordinance provides to owners, many of the rental property owners and property managers that have reviewed the ordinance have reservations about RAMP. While many were opposed to the program there main reservations are centered on the csd rating than on the code violations components.

From an operational standpoint, staff is still refining the program design, resource needs and fee schedule recommendations. Given those issues, staff anticipates having the ordinance and program design ready for City Council consideration at the December 12, 2011 meeting. As such, staff is recommending City Council set a public hearing for that night to hear from stakeholders.

BUDGET IMPACT:

City Council approved approximately \$132,500 in the FY 2012 budget to fund our earlier version of PROP. Given the uncertainty of the program and the rescission/repeal of the PROP ordinance, staff has delayed expensing those funds or hiring the budgeted 2.5 staff positions (1 full-time housing inspector, 1 paralegal/crime analyst, and .5 office assistant.)

Currently staff is unsure what resources will be needed to operate RAMP, as we are still working on program design issues. However, the FY 2012 funds are still available pending action by City Council.

OPTIONS:

As this is an update, no action is required. However, staff recommends City Council call for a public hearing on December 12, 2011 to solicit feedback from stakeholders..

RECOMMENDED ACTION:

As this is an update, no action is required. However, staff recommends City Council call for a public hearing on December 12, 2011 to solicit feedback from stakeholders..

ATTACHMENTS:

RAMP Ordinance
Ramp Code Violations
crime points

Please note the following is not the entire chapter. A new article V is being created as follows.

Chapter 14

HOUSING, DWELLINGS AND BUILDINGS

ORDINANCE NUMBER: _____

AMENDING CHAPTER 14

WHEREAS, the City of Fayetteville has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving the public order; and

WHEREAS, G.S. 160A-174 allows a city by ordinance to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of the public, and the peace and dignity of the city; and

WHEREAS, there are residential rental properties in the City of Fayetteville that have become a haven for various criminal or disruptive activities that cause disorder in our community; and

WHEREAS, the City Council desires to minimize and control the adverse effects caused by illegal activities occurring on and in these properties and thereby protect the health, safety, and welfare of the citizens, preserve the quality of life and property values and the character of neighborhoods and businesses, and deter the spread of urban blight; and

WHEREAS, the City Council recognizes that it is necessary for the City to apply its limited police and other municipal resources in accordance with the needs of the community at large, and to adjust the application of those resources as necessary to address activity that is injurious to the health, safety and welfare of the public; and

WHEREAS, the City Council recognizes that deterring crime in residential rental properties is a dynamic partnership between police, property owners, property managers, residents, and neighbors, each with responsibilities in cooperation with the other; and

WHEREAS, the City Council desires to implement a registration requirement for those residential rental property owners whose rental property has an unacceptable level of disorder activity occurring on or in the property; and

WHEREAS, there is a significant and demonstrative need to implement a program designed to assist residential rental property owners and managers who have experienced excessive levels of criminal activity and disorder; and

WHEREAS, the City Council desires to enact a remedial residential rental action program for residential rental property owners in order to implement recommended measures to curb excessive levels of criminal activity and disorder at rental properties; and

WHEREAS, the City Council, finds that a residential rental property owner's failure or refusal to successfully complete the remedial action program is injurious to the public's health, safety and welfare.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. Chapter 14 "Housing, Buildings and Dwellings" of the Fayetteville City Code is amended by creating Article V entitled "Residential Rental Remedial Action Program", to read as follows:

"ARTICLE XII. Residential Rental Remedial Action Program.

Section 14-63. Purpose.

The purpose of this article is to establish a requirement that Owners of Residential Rental Property whose property is within the Disorder Risk Threshold as established by this ordinance or in repeated violation of the Fayetteville City Code as defined and established by this ordinance must register with the City sufficient identification information so that the City may expeditiously identify and contact the Owner when excessive levels of disorder activity or code violations have occurred on or in the property. In addition, the City desires to establish a method to hold Owners of Residential Rental Property accountable for failing to use effective methods to reduce Disorder Activity and code violations on their property. It is not the intent of this article to determine the rights and liabilities of persons under agreements to which the City is not a party. This article shall not be construed to alter the terms of any lease or other agreement between a landlord and a tenant or others relating to property that is the subject of this Article; provided that no provision of any lease or other agreement shall be construed to excuse compliance with this article. Additionally, a violation of this article shall not in and of itself create a negligence per se standard or otherwise expand existing liability in tort for either a landlord or a tenant.

Section 14-64. Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

Development Services Official: A person designated by the Development Services Director of the City of Fayetteville who is primarily responsible for the administration of this Article.

Disorder Activity: Activity occurring on or in a Residential Rental Property categorized as either reported violent crimes as listed in this ordinance entitled “Appendix A-Violent Crimes”, reported property crimes as listed in this ordinance entitled “Appendix B – Property Crimes”, and certain types of disorder-related, person or officer-initiated requests for police service only as listed in the appendix of this ordinance entitled “Appendix C – Disorder Activity.” A domestic violence call for service is not a Disorder Activity.

Disorder Activity Count: A number assigned to a Residential Rental Property that represents the amount of Disorder Activity occurring within a specified time period in or on the Property. For purposes of determining a Disorder Activity Count, the number of violent crimes is multiplied by 1, the number of property crimes is multiplied by 0.25, and the number of disorder calls for service is multiplied by 0.10.

Disorder Risk Threshold: For each Residential Rental Property Category, the Disorder Activity Count for the Residential Rental Property that is at the 90th percentile of Residential Rental Properties within the Residential Rental Property Category.

In Need of Remedial Action: (INRA): A designation by the Police Official that a Residential Rental Property has been identified for enforcement action under this ordinance.

Manager: The person, persons or legal entity appointed or hired by the Owner to be responsible for the daily operation of the Residential Rental Property.

Owner: The person, persons or legal entity that holds legal title to a Residential Rental Property.

Police Official: A person designated by the Chief of Police who is primarily responsible for the administration of this Article.

Registered Agent: The person identified by the Owner of the Residential Rental Property in the registration filed pursuant to this Article who is authorized to receive legal process and/or notice required or provided for in this Article.

Remedial Action Plan: A written plan agreed upon and signed by both the Police Official and Owner whereby the Owner agrees to implement remedial measures on a Residential Rental Property whose Disorder Activity Count exceeds the Disorder Risk Threshold for its Residential Rental Property Category.

Remedial Measures: Mandatory and voluntary measures as stated within the Remedial Action Plan Manual, a copy of which is on file at the City Clerk's Office.

Residential Rental Property: Property that contains a single-family rental dwelling unit or multi-family rental dwelling units for use by residential tenants including but not limited to the following: mobile homes, mobile home spaces, townhomes, and condominium unit(s).

Residential Rental Property Category: Residential Rental Properties will be categorized by the number of residential units contained in the property as follows:

- Category 1 – 1 unit or single family home
- Category 2 – 2 to 10 units
- Category 3 – 11 to 100 units
- Category 4 – 100 units or more

Residential Rental Property Review Board: The Board created pursuant to this Article.

Verified Violation. A violation of the Fayetteville City Code of Ordinances as determined by the Development Services Official.

Section 14-65. Registration of Residential Rental Property Due to Verified Violations.

(a) Each Owner of Residential Rental Property that has been found with three (3) or more verified violations in the previous twelve (12) month period, whether those violations have been resolved by corrective action or not, shall register that property by providing the following information to the Development Services Official:

- (1) The address(es) for the Residential Rental Property which shall include the street name(s), number(s) and zip code;

- (2) The name(s), business or personal address, telephone number, and email address of the Owner;
- a. If the property is owned by multiple natural persons, then the required information shall be that of one person who has legal authority to act on behalf of the other Owners.
 - b. If the property is owned by a corporation, whether foreign or domestic, then the required information shall be that of a Registered Agent and of an officer who has authority to act on behalf of the corporation.
 - c. If the property is owned by a partnership, then the required information shall be that of the managing partner and one alternate who have legal authority to act on behalf of the partnership.
 - d. If the property is owned by an unincorporated association or any other legal entity not mentioned above, then the required information shall be that of a person who has legal authority to act on behalf of that association or entity.
- (3) The number of units located on the residential property.

(b) The address(s) required in subsection (a) (2) shall not be a public or private post office box or other similar address.

(c) An Owner that is required to register under this ordinance who sells the property shall notify the Development Services Official of all purchaser information within thirty (30) days from the date of change of ownership. Purchaser information shall include the name, address, phone number and e-mail address for the purchaser.

(d) An Owner that is required to register under this ordinance shall post proof of registration as provided by the City in the business office of the property or in a common area or other conspicuous place accessible at all times to the tenant(s).

(e) Each residential rental property parcel shall be registered separately.

(f) The Owner of Residential Rental Property that is the site of three (3) verified violations in the previous twelve (12) month period shall be sent a

notice by certified mail to the name and address listed with the Cumberland County's Office of Tax Assessor.

- (g) The notice shall include the following information:
 - (1) A description of the verified violations of the Fayetteville City Code that have occurred at the property in the past twelve (12) months as well as the dates of said violations; and
 - (2) The amount of the registration fee.

Section 14-66. Grounds for Revocation of Rental Registration as Required by Section 14-65.

- (a) Each Owner of Residential Rental Property that has been found with four (4) or more verified violations in the previous twelve (12) month period, whether those violations have been resolved by corrective action or not, shall have the rental registration for that property revoked by the Development Services Official.
- (b) Each Owner of Residential Rental Property that is required by this ordinance to register his or her property and either fails to do so or fails to pay the required registration fee shall have the rental registration revoked by the Development Services Official.

Section 14-67. Notice of Revocation.

A notice of revocation shall be sent by certified mail or delivered in person to the address listed on the rental registration.

Section 14-68. Period of Revocation.

Revocation of an Owner's rental registration shall remain in place for a period of one (1) year. If an Owner fails to register his or her property as required by this ordinance then that property shall be ineligible for registration for a period of one (1) year.

Section 14-69. Registration of Residential Rental Property Due to Disorder Activity.

- (a) Each Owner of Residential Rental Property that falls at or above the Disorder Risk Threshold for its Residential Rental Property Category shall register by providing the following information at the initial mandatory meeting:

- (1) The address(s) for the Residential Rental Property which shall include the street name(s), number(s) and zip code;
- (2) The name(s), business or personal address, telephone number, and email address of the Owner;
 - a. If the property is owned by multiple natural persons, then the required information shall be that of one person who has legal authority to act on behalf of the other Owners.
 - b. If the property is owned by a corporation, whether foreign or domestic, then the required information shall be that of a Registered Agent and of an officer who has authority to act on behalf of the corporation.
 - c. If the property is owned by a partnership, then the required information shall be that of the managing partner and one alternate who have legal authority to act on behalf of the partnership.
 - d. If the property is owned by an unincorporated association or any other legal entity not mentioned above, then the required information shall be that of a person who has legal authority to act on behalf of that association or entity.
- (3) The number of units located on the residential property.

(b) The address(s) required in subsection (a) (2) shall not be a public or private post office box or other similar address.

(c) An Owner that is required to register under this ordinance who sells the property shall notify the Police Official of all purchaser information within thirty (30) days from the date of change of ownership. Purchaser information shall include the name, address, phone number and e-mail address for the purchaser.

(d) An Owner that is required to register under this ordinance shall post proof of registration as provided by the City in the business office of the property or in a common area or other conspicuous place accessible at all times to the tenant(s).

(e) Each residential rental property parcel shall be registered separately.

Section 14-70 Disorder Risk Threshold and Disorder Activity Count.

The Police Official shall determine the Disorder Activity Count for each Residential Rental Property and the Disorder Risk Threshold for each Residential Rental Property Category on a semi-annual basis, by January 1 of each calendar year and by June 1 of each calendar. These determinations shall be made using Disorder Activity during the previous six month period .

Section 14-71. Notification of Mandatory Meeting.

(a) The Owner of Residential Rental Property that falls at or above the Disorder Risk Threshold shall be sent a notice by certified mail to the name and address listed with the Cumberland County's Office of Tax Assessor.

(b) The notice shall include the following information:

- (1) The date, time and location for the mandatory initial meeting between the Police Official and the Owner; and
- (2) The Disorder Activity Count for the Residential Rental Property; and
- (3) A statement that the Owner may provide additional evidence at the initial mandatory meeting to be considered by the Police Official; and
- (4) A detailed summary of the Disorder Activity that has occurred on or in the property.
- (5) The amount of the registration fee.

Section 14-72. Mandatory Initial Meeting.

(a) Unless otherwise agreed to by the Owner and Police Official, within thirty (30) days after notice has been provided to the Owner that a property falls at or above the Disorder Risk Threshold, a mandatory initial meeting shall be held between the owner and the Police Official. The initial meeting may be held in person or by telephone. In the event there are multiple property Owners, the Owner attending the initial meeting must have power of attorney to execute the remedial action plan on behalf of the other Owners.

(b) At the mandatory initial meeting, the Police Official and the Owner shall, at a minimum, review the following:

- (1) The data that established the Disorder Activity Count for that property; and
- (2) Any relevant evidence provided by the Owner that may establish that the property does not fall at or above the Disorder Risk Threshold.

(c) After reviewing all the evidence, any previously identified Disorder Activity that is found to either not have occurred on or in the property or does not clearly meet the definition of a Disorder Activity shall be discounted and an adjusted Disorder Activity Count shall be determined. In the event that the adjusted Disorder Activity Count for the property falls at or above the Disorder Risk Threshold, then the Owner and Police Official shall develop and sign a Remedial Action Plan and the property will be set for a six (6) month review date pursuant to section 14-73. In the event the adjusted Disorder Activity Count is below the Disorder Risk Threshold, then no further action shall be taken by the Police Official.

(d) In the event the Owner fails to attend the initial meeting without just cause, the Police Official shall review all the evidence concerning the property pursuant to Subsections (b) and (c) of this Section. Upon a finding that the adjusted Disorder Activity Count for the property is at or above the Disorder Risk Threshold, the Police Official shall refer the property to the City Attorney's Office for determination of whether a public nuisance action or any other legal or equitable remedy is warranted.

(e) The Owner of Residential Rental Property that is required to register under this ordinance shall pay a registration fee on or before the Mandatory Meeting in the amount established pursuant to the fee schedule adopted by City Council.

Section 14-73. Remedial Action Plan and Review.

(a) At the first six (6) month review, the Owner and Police Official shall review the Disorder Activity in or on the property since the date of the Remedial Action Plan and determine the Disorder Activity Count for the property during that time period. If the Disorder Activity Count is no longer at or above the Disorder Risk Threshold, then no further action will be taken and the Owner of the property will not be required to continue to pay for registration the following year unless at that time the property is again at or above the Disorder Risk Threshold. If the Disorder Activity count continues to fall at or above the Disorder Risk Threshold, then the property will be designated In Need of Remedial Action (INRA) and the Police Official and the Owner shall amend and sign the Remedial Action Plan and a second six (6) month review date will be set.

(b) At the second six (6) month review, the Owner and Police Official shall review the Disorder Activity in or on the property since the date of the amended Remedial Action Plan and determine the Disorder Activity Count for the property during that time period. If the Disorder Activity Count is no longer at or above the Disorder Risk Threshold, then no further action will be taken. If the Disorder Activity Count continues to fall at or above the Disorder Risk Threshold, then the Police Official shall revoke the rental registration for the property unless it is determined that the Owner has complied in good faith with the remedial action plans.

- (1) In determining whether the Owner has acted in good faith, the Police Official shall weigh the following factors:
 - a. Whether the Owner has regularly met with the Police Official; and
 - b. Whether the Owner has exhausted all resources reasonably available to the Owner in order to comply with the terms of the Remedial Action Plans; and
 - c. Whether the Owner has intentionally ignored a term of a Remedial Action Plan; and
 - d. Whether the Disorder Activity on the property constitutes a public nuisance.
- (2) If the Owner has been found to have acted in good faith, then the Police Official may remove the designation of INRA and continue to work with the Owner. A property that continues to fall at or above the Disorder Risk Threshold for a second year will be referred to the City Attorney's Office for determination as to whether a public nuisance action or any other legal or equitable remedy is warranted.

(d) All Remedial Action Plans will be based on the procedures and practices set forth in the Fayetteville Police Department *Remedial Action Plan Manual; A Guide to Managing Rental Properties to Prevent Crime*.

Section 14-74. Additional Grounds for Revocation of Rental Registration.

In addition to the grounds stated in Section 14-73(b), the Police Official may revoke the Owner's rental registration based on a determination that:

(a) The Owner provided materially false or misleading information during the registration process; or

(b) The Owner refused to meet with the Police Official and/or develop a Remedial Action Plan as required under Section 14-73 without just cause; or

(c) The Owner failed to pay the required registration fee on or before the date of the Mandatory Initial Meeting as required under Section 14-72(e).

Section 14-75. Notice of Revocation.

A notice of revocation shall be sent by certified mail or delivered in person to the address listed on the rental registration.

Section 14-76. Period of Revocation.

Revocation of an Owner's rental registration shall remain in place for a period of one (1) year. If an Owner fails to register his or her property as required by this ordinance then that property shall be ineligible for registration for a period of one (1) year.

Section 14-77. Transition Plan and Notification of Tenants.

Upon revoking a rental registration, the Police Official or Development Services Official shall develop a transition plan for the Owner's lawful disengagement from the operation and management of the rental property. The transition plan may include a referral to the City Attorney for the evaluation of the property as a public nuisance or for any other legal or equitable remedy available under law necessary to fairly assist in the disengagement process. Upon revocation and issuance of a transition plan, the Police Official or Development Services Official shall take reasonable steps to notify the residents of the property.

Section 14-78. Residential Rental Property Review Board.

(a) A Residential Rental Property Review Board (hereinafter "Board") is hereby established, to be composed of seven members: four members to be appointed by the City Council, two members to be appointed by the mayor and one to be appointed by the City Manager. The appointing authorities shall ensure that the members of the Board are representative of the residential rental, tenant and homeowner community.

(b) One member from the Fayetteville Police Department who has obtained the rank of captain or above and one employee of the City's Development Services Department who has the authority to investigate code violations will sit on the Board as advisors only.

(c) Individuals with a felony conviction within the last ten (10) years shall not be eligible to serve on the Board. Further, conviction of or a plea of *nolo contendere* to a felony during the term of office shall automatically terminate membership on the Board, irrespective of any appeals. Board members charged with a felony during a term of office shall be automatically suspended until disposition of the charge, and a quorum shall be established from the remaining membership.

(d) Board members shall keep all information about criminal investigations confidential.

(e) The Board shall elect a chairperson and vice-chairperson from its membership.

(f) All members of the Board serve without compensation.

(g) The terms of office shall be for two (2) years with no member serving more than two consecutive full terms. The terms of one-third of the Board shall expire each year. If a vacancy occurs, the original appointing authority shall appoint a person to serve for the unexpired term of the vacant position.

(h) Five voting members shall constitute a quorum. Members are required to attend all business meetings and hearings in accordance with the attendance policies promulgated by the City Council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section.

(i) Members shall be subject to removal from the Board with or without cause by the appointing authority.

Section 14-79. Duties and Responsibilities of the Residential Rental Property Review Board.

The Board shall hear appeals from an Owner of Residential Rental Property whose registration has been revoked.

Section 14-80. Notice of Appeal of Revocation.

A Residential Rental Property owner may appeal a notice of revocation of rental registration to the Board. All revocation appeals to the Board must be filed in writing with the City Clerk's office within ten (10) calendar days of the date the notice of revocation is served on the Owner. The Owner shall provide a valid current address for the purpose of all notifications required to be made pursuant to this ordinance. The request must state the reason for the appeal.

Section 14-81. Hearing Procedure and Appeal of Board's Findings.

(a) The City Clerk shall forward an appeal of revocation of rental registration to the Police Official, Development Services Official and to the Chair of the Board. The Police Official or Development Services Official shall prepare a summary of the case, including all relevant data. The summary shall be provided to the Board and the Owner at least five working days before the hearing.

(b) Unless a quorum cannot be obtained or as otherwise agreed to by the Owner and Police Official or Development Services Official, the Board shall hold a hearing within thirty (30) calendar days of the date the appeal is received by the City Clerk. Should the Owner or the Police Official or Development Services Official desire a hearing date other than that set by the Board, the Owner or the Police Official or Development Services Official shall submit a written request for a change of the hearing date, stating the reason for the request. The Chair shall approve or disapprove such request, provided that such request is received by the Board at least seven (7) calendar days prior to the date of the hearing. For good cause, the Chair may continue the hearing from time to time. The hearing shall be conducted with at least five (5) voting members of the Board present.

(c) The Owner shall appear at the hearing in person and shall have the right to representation by a person of his or her choice. The North Carolina Rules of Evidence, G.S. Chapter 8C, shall not strictly apply to the hearing, but all parties shall have an opportunity to offer evidence, cross-examine witnesses, and inspect documents. Only sworn testimony shall be accepted. The Chair of the Board, as well as any Board member designated by the Chair, shall have the authority to administer the oath as set forth for witnesses in a civil matter by G.S. § 11-11. All hearings before the Board shall be *de novo* and recorded. The Board has the authority to develop rules and regulations consistent with this ordinance to facilitate the hearing process.

(d) The City shall have the burden of proof and must establish by the preponderance of the evidence that the Owner's property is In Need of Remedial Action and the owner has failed to act in good faith to comply with the Remedial Action Plan. After reviewing the evidence and hearing testimony from the witnesses, the Board shall issue findings of fact and conclusions of law and issue an order either affirming or reversing the decision of the Police Official or Development Services Official.

(e) An Owner has the right to appeal the Board's decision to the City Council by filing a notice of appeal with the City Clerk within (10) ten days after the Board issues its written decision. When feasible, the matter will be set for review by the City Council at the next regularly scheduled business meeting. The City Council shall make its decision based on the record below, and no additional evidence will be considered. A majority vote by the City Council in favor of the Board's decision is required to uphold the Board's decision to revoke the Owner's registration. An appeal to City Council will stay the proceedings until it completes its review.

(f) If the City Council upholds the Board's decision, the Owner shall have the right to seek judicial review of the Board's decision in a proceeding in the nature of certiorari instituted in the Superior Court of the county within 30 days after the City Council votes to uphold the Board's decision. Judicial review shall not automatically stay the revocation.

Section 14-82. INRA Designation Binding on Subsequent Owner.

The designation of a property as INRA and the application of the procedures set forth in this article shall be binding upon all subsequent Owners or other transferees of an ownership interest in the Rental Residential Property. However, the revocation may be stayed during the implementation of a transition plan.

Section 14-83. Enforcement, Remedies and Penalties.

(a) The remedies provided herein are not exclusive and may be exercised singly, simultaneously, or cumulatively. In addition, the remedies provided herein may be combined with any other remedies authorized by law and exercised in any order. This ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

(b) It shall be a civil violation of this ordinance for any Owner of Residential Rental Property or person or entity on behalf of that Owner to commit any of the following acts:

- (1) Lease or rent Residential Rental Property to another person or entity when the rental registration for that property has either been revoked or never obtained as required by this ordinance, except pursuant to a transition plan as set forth in Section 14-77 of this ordinance.
- (2) Lease or rent Residential Rental Property to another person or entity after the Owner has been served with notice of the

mandatory meeting and fails to attend the meeting without just cause as set forth in Section 14-72 of this ordinance.

- (3) Lease or rent Residential Rental Property to another person or entity after the Owner has been served with notice of the mandatory meeting and fails to pay the required registration fee prior to or on the date of the mandatory meeting as set forth in Section 14-72(e) of this section.

(c) Notwithstanding that the Owner's property registration has been revoked or the Owner has failed to attend the mandatory meeting as set forth in Section 14-72 of this ordinance, the owner shall not commit the following acts:

- (1) Refuse or fail to comply with any order of the City to repair a dwelling pursuant to Chapter 14 of the Fayetteville City Code, or
- (2) Terminate the utility services of any occupants or otherwise violate the rights of residential tenants under Article 2A, Article 5, or Article 6 Chapter 42 of the General Statutes.

(d) Notwithstanding that the Owner's property registration has been revoked, the Owner's compliance with its obligations in subsection (c)(1) and (2) hereinabove shall not be deemed as offenses under subsection (e) below.

(e) Failure to comply with the provisions of this section shall subject the offender to a civil penalty of fifty dollars (\$50.00) a day for the first 30 days, one hundred dollars (\$100.00) a day for the next thirty days, and five hundred dollars (\$500.00) a day for each subsequent day.

(f) A civil penalty that is assessed under this ordinance may be recovered by the City in a civil action in the nature of a debt if the owner does not pay the penalty fee within thirty (30) days after a notice of the penalty is issued by the Police Official or the Development Services Official.

Section 14-84. Adoption of Remedial Action Plan Manual.

The Remedial Action Plan Manual, a copy of which is on file in the Office of the City Clerk, is hereby adopted. The City Council hereby finds and determines the remediation strategies set out therein to be reasonable and appropriate to address the public health, safety and welfare issues addressed by this article entitled the "Remedial Action Plan Manual; a Guide to Managing

Rental Properties to Prevent Crime”. The Chief of Police or his designee is hereby authorized to amend the Remedial Action Plan Manual.

RAMP Code Violations

Chapter 6 - Animals and Fowl*

Article III - Animals and Fowl within the City Limits

Division 2. - Dogs

Sec. 6-241. - Sanitary conditions.

Chapter 14 - Housing, Dwellings and Buildings

Article II - Standards of Fitness and Responsibilities of Owners and Occupants

Sec. 14-31. - Space and use standards.

Sec. 14-32. - Light and ventilation standards.

Sec. 14-33. - Exit standards.

Sec. 14-34. - Structural standards.

Sec. 14-35. - Property maintenance.

Sec. 14-36. - Electrical standards.

Sec. 14-37. - Plumbing standards.

Sec. 14-38. - Heating standards.

Sec. 14-39. - Responsibilities of owners and occupants.

Chapter 16 - Motor Vehicles and Traffic

Article XII - Abandoned, Junked and Nuisance Vehicles

Sec. 16-354. - Abandoned vehicles unlawful; removal authorized.

Sec. 16-355. - Public nuisance vehicles unlawful; removal authorized.

Sec. 16-356. - Junked motor vehicles unlawful; removal authorized.

Chapter 22 - Solid Waste

Article I - In General

Sec. 22-16. - Illegal dumping; owners and occupants required to keep premises free from public health and safety nuisances.

**Chapter 6 – Animals and Fowl is currently being reviewed by the City Attorney's Office for possible modification.*

RAMP

Crime Social Disorder Criteria

| UCR Code | Offense Description | Point Value |
|----------|---|-------------|
| O410 | Aggravated Assault | 3 |
| O810 | Simple Assault | 2 |
| O820 | Simple Non-Physical Threat Intimidation | 1 |
| O890 | All Other Simple Assaults | 2 |
| 1310 | Buying / Receiving Stolen Property | 2 |
| 1330 | Possessing / Concealing Stolen Property | 2 |
| 1530 | Possessing / Concealing Weapons | 2 |
| 1550 | Using Weapons (Illegal Discharge) | 3 |
| 1610 | Prostitution | 1 |
| 1810 | Drug Violations | 3 |
| 1834 | Equipment / Paraphernalia - Possessing | 1 |
| 1990 | All Other Gambling | 1 |
| 2030 | Child Neglect | 2 |
| 2040 | Child Abuse | 2 |
| 2211 | Selling / Distributing Tax Paid Liquor | 1 |
| 2212 | Possessing / Concealing Tax Paid Liquor | 1 |
| 2214 | Using / Consuming Tax Paid Liquor | 1 |
| 2410 | Disorderly Conduct | 2 |
| 2420 | Disturbing the Peace | 2 |
| 2430 | Fighting (Affray) | 2 |
| 2440 | Unlawful Assembly | 2 |
| 2450 | Drunk and Disruptive | 2 |
| 2660 | Parole & Probation Violations | 2 |
| 2680 | City Ordinance Violations | 1 |